IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 58 OF 2005

IN

WRIT PETITION NO. 1140 OF 2005

MR. DINANATH NANDLAL PATNI ... PETITIIONER

VERSUS

ABHYUDAYA CO-OP. BANK LTD. & Ors. RESPONDENTS

Mr. Gabriel Pillai for the petitioner.

Mr. R.V.Govilkar i/b. Mr. Milind More for Respondent No.1.

CORAM: S.K.SHAH,J.

DATE : 7th October,2005.

P.C.

1. The contempt is alleged of the order passed by this Court in terms of the consent terms filed by the parties. Para 4 of the Consent Minutes of Order mentions that the Respondent Bank will hand over certified copy of loan Agreement and copiesof Invoice within one month. The grievance is that these documents have not been furnished. It is explained that the copy of the loan agreement was already given to the petitioner and therefore the same was not again given. However, the learned Counsel on behalf of the petitioner submits that he will furnish copy of the

loan agreement by tomorrow.

2. It is clarified in the affidavit filed by the Respondent No.3 who is the person concerned and deals with loans that the said undertaking was given on the erroneous belief that the invoices were with the Bank. However, it is mentioned in the affidait that under the procedure followed for granting loan, the original invoices are never taken by the Bank and only copies are kept with the Bank and it was at the time of consent terms the parties were under the impression that the copies of the invoices were with the Bank and therefore the undertaking was given. However, that copyis not with the Bank. This appears to be a mistake on his part and there is no disobedience of the order passed in terms of the consent terms.

3. There is also an item No.6 in the consent minutes of the order which mentions that Respondent No.1 Bank will release Excavator after first instalment of Rs.12 lakhs is paid and lift attachment of Bank accounts of Guarantors and the petitioner. In this regard, it is submitted and stated on affidavit that the Excavator is already in possession of the petitioner. The learned Counsel for the petitioner admits this position.

As such, nothing survives in the Contempt Petition. The Contempt Petition stands disposed of.

(S.K.SHAH,J.)